

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JESSE A. HOPKINS,

Plaintiff,

v.

AMY PRECYTHE, et al.,

Defendants.

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Case No. 4:21 CV 1095 RWS

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff Jesse A. Hopkins, an inmate at the Eastern Reception, Diagnostic and Correctional Center (“ERDCC”), initiated this civil action by filing what purported to be a civil rights complaint under 42 U.S.C. § 1983 against “Amy Precythe et al.” He also filed a motion for leave to proceed *in forma pauperis*. The Court granted the motion and reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2), and determined that it was defective and subject to dismissal. On December 2, 2021, the Court entered an order giving Hopkins the opportunity to file an amended complaint to cure the defects. In that order, the Court clearly explained why the complaint was subject to dismissal, gave Hopkins clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely comply with the order could result in the dismissal of his case without prejudice and without further notice.

The amended complaint was due to the Court on January 3, 2022. To date, however, Hopkins has neither complied with the Court’s order, nor sought additional time to do so. The Court gave Hopkins meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time to comply.

Therefore, this action will be dismissed without prejudice due to his failure to comply with this Court's December 2, 2021 order, and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for a plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so). This dismissal will not count as a "strike" for purposes of 28 U.S.C. § 1915(g).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 21st day of January, 2022.